

STATE OF ALASKA

Tony Knowles, Governor

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FORESTRY

101 Airport Road

Palmer, Alaska 99645

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January 23, 2001

Nick Lacey
Director, Flight Standards Service
800 Independence Ave., S.W.
Washington, D.C. 20591

FAA-01-9030-1

Dear Mr. Cordon:

Please accept this letter as a request to extend Exemption 4063B which expires July 31, 2001. This exemption from § 91.119 (b) and (c) of Title 14, Code of Federal Regulations (14 CFR) is held by the State of Alaska, Department of Natural Resources and permits the pilots employed by or acting pursuant to a contract with the DOF to conduct firefighting requiring the aerial application of fire retardants or water over congested areas, and requiring cargo paradrops and/or aerial application of fire retardants or water over other than congested areas in the State of Alaska, subject to certain conditions and limitations.

The Division of Forestry is responsible for Wildland Fire Suppression on 106 million acres in Alaska. The aerial delivery of fire retardant materials from low-level is essential in order to provide for the protection of public property and resources.

The statements made in the original petition for Exemption No. 4063 in regard to the Division of Forestry's mission and the impact on public safety remain unchanged. The original exemption refers to Forestry's "Air Operations Handbook", which is now called the "Aviation Policy and Procedures Manual"

The State of Alaska, Division of Forestry has operated successfully under this partial grant of exemption since July 13, 1984.

If you need additional information, please call Dennis Ricker, Coastal Region Aviation Manager at 907-761-6229 (voice), or 907-761-6227 (fax).

Thank you for your consideration of this request.

Sincerely,



Dennis C. Ricker
Coastal Region Aviation Manager

Attachments: Exemption No. 4063B (dated May 19, 1999)
Original Exemption 4063 (dated July 20, 1984)



U.S. Department
of Transportation
**Federal Aviation
Administration**

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DIVISION
STANDARD

800 Independence Ave., S.W.
Washington, D.C. 20591

MAY 19 1999

Exemption No. 4063B
Regulatory Docket No. 23760

Mr. Dennis C. Ricker
Southern Zone Aviation Manager
Division of Forestry
3601 "C" Street, Suite 1008
Anchorage, AK 99503

Dear Mr. Ricker:

This is in response to your January 11, 1999, letter petitioning the Federal Aviation Administration (FAA) on behalf of the State of Alaska, Department of Natural Resources, Division of Forestry (DOF) for an extension of Exemption No. 4063, as amended. That exemption from § 91.119(b) and (c) of Title 14, Code of Federal Regulations (14 CFR) allows pilots employed by or acting pursuant to a contract with the DOF to conduct firefighting operations that require the aerial application of fire retardants or water over congested areas and cargo paradrops and/or aerial application of fire retardants or water over other than congested areas in the State of Alaska.

In your petition, you indicate that the conditions and reasons regarding public interest and safety, presented in the original petition upon which the exemption was granted, remain unchanged.

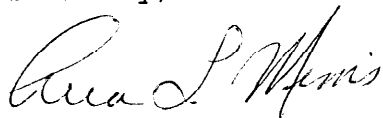
The FAA has determined that good cause exists for not publishing a summary of the petition in the Federal Register because the requested extension of the exemption would not set a precedent, and any delay in acting on this petition would be detrimental to the DOF.

The FAA has determined that the justification for the issuance of Exemption No. 4063, as amended, remains valid with respect to this exemption.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator (14 CFR § 11.53), Exemption No. 4063, as amended, is hereby further amended by extending its July 31, 1999, termination date to July 31, 2001, unless sooner superseded or rescinded.

All other conditions and limitations of Exemption No. 4063, as amended, remain the same. This letter shall be attached to, and is a part of, Exemption No. 4063.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ava L. Mims".

Ava L. Mims
Deputy Director, Flight Standards Service



U.S. Department
of Transportation

**Federal Aviation
Administration**

800 Independence Ave., S.W.
Washington, D.C. 20591

JUL 20 1984

Mr. John L. Sturgeon
State Forester
Department of Natural Resources
Pouch 7-005
Anchorage, Alaska 99510

Dear Mr. Sturgeon:

We are pleased to inform you of our determination concerning your petition for exemption from Section 91.79(b) and (c) of the Federal Aviation Regulations.

If there are any questions on this Partial Grant of Exemption, please contact me at (202) 426-8783.

Sincerely,

Harold W Becker

Harold W. Becker
Manager, Airspace and Air
Traffic Rules Branch, AAT-230

Enclosure



Edward Warren: First American Aloft

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C. 20591

* * * * *

In the matter of the petition of

ALASKA DEPARTMENT OF NATURAL RESOURCES,
DIVISION OF FORESTRY

for an exemption from Section 91.79(b)
and (c) of the Federal Aviation
Regulations

Regulatory Docket No. 23760

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PARTIAL GRANT OF EXEMPTION

By letter dated September 9, 1983, Mr. John L. Sturgeon, Alaska Department of Natural Resources, Division of Forestry (DOF), Pouch 7-005, Anchorage, Alaska 99510, petitioned for an exemption from Section 91.79(b) and (c) of the Federal Aviation Regulations (FAR) for low-level operations, closer than 500 feet to persons and property on the surface. Such operations, petitioner states, are necessary for the purpose of fire suppression activities, state natural resources regulations, and resource management.

Section 91.79(b)

Section 91.79(b) provides that, except when necessary for takeoff or landing, no person may operate an aircraft over any congested area of a city, town, settlement, or over any open air assembly of persons, below an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet from the aircraft. However, petitioner states that operations at altitudes less than this are often required because, in extreme fire conditions, surface firefighting equipment may not be able to reach the fire site in time nor deliver the volume of retardant or water required to prevent rapid spread of fire.

Additionally, petitioner believes that their procedures which provide for the planning, conduct, and critique of air tanker operations also help to provide a level of safety equal to the rule from which relief is sought. These procedures are outlined by the "Air Operations Handbook," as well as those adopted from the National Wildfire Coordinating Group.

The Federal Aviation Administration (FAA) is satisfied that petitioner has adequate justification for relief from Section 91.79(b). The FAA is also satisfied that the document, "Air Operations Handbook," provides the nucleus for procedures to ensure that an equivalent level of safety is maintained during DOF air tanker operations in congested areas. Therefore, that document is incorporated in this exemption and sets forth, in part, requirements for planning, coordinating, verifying, executing, managing, and critiquing air

tanker operations. Further, authorization to deviate from Section 91.79(t) for the purpose of dropping fire retardants is predicated on the requirement that the DOF apply the recommended procedures for air tanker operations in congested areas.

Section 91.79(c)

Section 91.79(c) provides that, except when necessary for takeoff or landing, no person may operate an aircraft over other than congested areas below an altitude of 500 feet above the surface except over open water or sparsely populated areas. In that case, the aircraft may not be operated closer than 500 feet to any person, vessel, vehicle, or structure.

Petitioner states that the required accomplishment of fire suppression and natural resources mission operations must be conducted along predetermined transect lines at altitudes as low as 150 feet above ground level (AGL). Firefighting activities involve paracargo drops of needed equipment and supplies from as low as 150 feet AGL to ensure accuracy of drop placement. Enforcement of fire and trespass regulations necessitates low altitude flying to ensure positive identification of aircraft, vehicles, or vessels involved in illegal activities. Petitioner maintains that these operations are in the public interest to ensure positive identification and to avoid loss of life and minimize property damage.

The FAA recognizes that the petitioner has satisfactorily operated under a waiver from Section 91.79(c) since at least July 1983, and that relief from Section 91.79 is required to allow the petitioner to carry out its mission. Accordingly, with respect to fire suppression activities, the petitioner's request is herein granted, subject to conditions and limitations necessary to ensure protection to persons and property on the ground. However, petitioner has not provided adequate justification for, nor does the FAA see reason to grant authorization to permit intentional flight at distances less than 500 feet from persons, vehicles, vessels, structures, and operations or routine flight at altitudes less than 500 feet above the surface during law enforcement activities.

In further support of the request, the petitioner states that the following high standards for crew and aircraft will further assure that equivalent level of safety is maintained during operations in deviation to the requirements under Section 91.79(b) and (c). Aircraft utilized in the operations are either owned or contracted by DOF. DOF aircraft are maintained under FAR Section 91.169(b); contracted aircraft are maintained as specified in FAR Part 135. Fire suppression and paracargo missions are conducted by pilots who must meet DOF minimum experience and competency standards. Contract specifications for aerial tankers are identical to those established for operations under the U.S. Forestry Service, which holds an exemption from Section 91.79(b) and (c).

In consideration of the foregoing, I find that a partial grant of exemption is in the public interest. Accordingly, pursuant to the authority contained in Section 307(e) of the Federal Aviation Act of 1958, as amended, which has been delegated to me under Section 11.53 of the Federal Aviation Regulations, pilots in the employ of, or acting pursuant to a contract with, the Department of Natural Resources, Division of Forestry, are hereby granted an exemption from the provisions of Section 91.79(b) and (c) of the FAR to the following extent:

1. An exemption is granted from Section 91.79(b) for firefighting in the State of Alaska requiring the aerial application of fire retardants or water.

2. An exemption is granted from Section 91.79(c) for the following operation:

(a) Firefighting that requires cargo paratroops and/or aerial application of fire retardants or water.

This exemption is subject to the following conditions and limitations:

1. Pilots conducting flight operations authorized herein shall possess currency and experience levels at least equal to those specified in DOF Air Operations Handbook.

2. Aircraft used in operations under this exemption must be maintained according to Section 91.169(b) or Part 135, as appropriate.

3. The exemption from Section 91.79(b) allowing aerial application of fire retardants or water is subject to the execution of DOF directive that includes the safety provisions and recommendations in the document entitled, "Air Operations Handbook," prepared by the National Wildfire Coordinating Group.

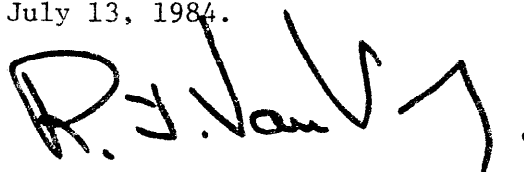
4. During firefighting activities involving paracargo drops, no aircraft may be operated closer than--

(a) 150 feet to any person, vessel, or vehicle engaged in firefighting activity; and

(b) 500 feet to any person, vessel, vehicle, or structure not engaged in firefighting activity.

This exemption is effective immediately and will continue in effect until superseded or rescinded by the FAA.

Issued in Washington, D.C., on July 13, 1984.



R. J. Van Vuren
Associate Administrator for
Air Traffic